

REMARKS/ARGUMENTS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance. The present amendment is being made to facilitate prosecution of the application.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 1-4 and 6-14 are pending in this application. Claims 1 and 9 are independent. Claim 5 has been canceled without prejudice or disclaimer of subject matter. It is submitted that these claims, as originally presented, were in full compliance with the requirements 35 U.S.C. §112.

II. REJECTIONS UNDER 35 U.S.C. §103(a)

Claims 1-4 and 6-14 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 5,945,987 to Dunn (hereinafter merely “Dunn”) in view of U.S. Patent No. 6,460,032 to Ludtke, et al. (hereinafter merely “Ludtke”) and further in view of U.S. Publication No. 2001/0056478 to Wheeler, et al. (hereinafter merely “Wheeler”).

Applicants submit that the rejection under Ludtke is improper because Ludtke is 35 U.S.C. §102(e) art and is disqualified under 35 U.S.C. §103(c).

The present application is entitled to the benefit, under 35 U.S.C. §119, of Japanese Patent Application No. 11-274322 filed on September 28, 1999 filed in Japan. An acknowledgement of such claim of priority and receipt of the priority document is provided on

the summary sheet of the first Office Action, which was dated March 1, 2004. The present application has a U.S. filing date of September 27, 2000. Ludtke was published on October 1, 2002, which is after the U.S. filing date of the present application. Therefore, Ludtke is 102(e) art.

Therefore, Ludtke is disqualified as §103 prior art to the present application under the provisions of 35 U.S.C. §103(c). Under the provisions of 35 U.S.C. §103(c), as amended on November 29, 1999, subject matter developed by another person, which qualifies as prior art only under one of more of subsections (e), (f) and (g) of 35 U.S.C. §102, shall not preclude patentability under §103 where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person or organization.

Ludtke and the present application were, at the time the present invention was made, subject to an obligation of assignment to the same organization, i.e., Sony Corporation. (Sony Electronics Inc. being wholly owned by Sony Corporation.) Such obligation is evidenced by the recording of assignment documents in the U.S. Patent and Trademark Office.

Accordingly, Ludtke is disqualified as prior art in a rejection under 35 U.S.C. §103(a); and thus all of the outstanding rejections based upon Ludtke in the above-noted Office Action are overcome.

Applicant also notes that Ludtke is a Continuation of U.S. Patent No. 6,460,030, which also qualifies only as prior art under 35 U.S.C. §102(e) art and is disqualified under 35 U.S.C. §103(c).

Therefore, Applicant submits that the pending claims are patentable.

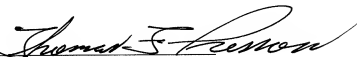
CONCLUSION

In view of the foregoing remarks, it is believed that all of the claims in this application are patentable and Applicant respectfully requests early passage to issue of the present application.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicant

By 
Thomas F. Presson
Reg. No. 41,442
(212) 588-0800